

# MONTREAT CODE OF GENERAL ORDINANCES

## CHAPTER F -- TRAFFIC

### ARTICLE III: STOPPING, STANDING, AND PARKING

*(Revised 2/12/2004)*

*(Revised 8/14/2008)*

Section 1. Vehicles Not To Stop In Streets, Exceptions. No Vehicle shall stop in any Street except for the purpose of parking as prescribed in this Chapter, unless such stop is made necessary by the approach of fire apparatus, by the approach of a funeral or other procession which is given the right-of-way by the stopping of public conveyance, by the giving of traffic signals, by the passing of some other Vehicle or Pedestrian, or by some emergency; and in any case covered by these exceptions said Vehicles shall stop so as not to obstruct a Public Walkway, Pedestrian aisle, Safety Zone, Crossing or Street Intersection if such can be avoided.

Section 2. Vehicles Not To Obstruct Passing Of Emergency Apparatus And Other Vehicles. No Vehicles shall so stand on any Street as to interrupt, or interfere with, the passage of public conveyances and emergency apparatus. For the purpose of this Section, interrupt or interfere is defined as parking or placing a Vehicle or other obstruction in such a manner that a twelve foot wide section of road surface is not maintained for emergency traffic. Vehicles violating this Section are subject to towing at the owner's expense.

Section 3. Parking Prohibited At All Times In Designated Areas. No Person shall Park a Vehicle upon any portion of a Street where signs are placed, erected, or installed, giving notice that the area is a tow-away zone or no parking zone, or where the curbing or edge of pavement has been painted yellow or white and/or marked NO PARKING by the Town in lieu of placing signs.

Section 4. Parking Parallel To Edge of Roadway, Unless Otherwise Directed By This Chapter Or By Parking Lines. Where not prohibited by signs or markings, Vehicle shall Park parallel to the edge of Roadway leaving no less than twelve feet of Roadway unobstructed for normal passage of other Vehicles.

Section 5. Parking Within Lines Where Provided. On any Street or shoulder of any Street, which is marked off with lines indicating the parking spaces for Vehicles, all Vehicles shall be parked between said lines. In instances where other means are used to denote parking spaces, all Vehicles shall be parked within those spaces as well.

Section 6. Unlawful Parking. No Person shall Stand or Park a Vehicle upon any Street for the principal purpose of:

- 1) Displaying a Vehicle for sale;

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- 2) Washing, greasing, or repairing such Vehicle, except repairs necessitated by emergency;
- 3) Storage of a Vehicle by a garage, dealer or other Person when such Storage is not incident to the bona-fide use and operation of such Vehicle; or
- 4) Storage of any detached trailer, or van, when the towing unit has been disconnected, or for the purpose of transferring merchandise or freight from one Vehicle to another. In this case, storage shall mean parking for three consecutive days. The Police Chief has the authority to grant an exception to the number of days allowed.

Section 7. Standing Or Parking Vehicles For Primary Purpose Of Advertising Prohibited. No Person shall Stand or Park on any Street any Vehicle for the primary purpose of advertising.

Section 8. Stopping, Standing, Or Parking Prohibited In Specified Places. No Person shall stop, Stand, or Park a Vehicle except when necessary to avoid conflict with other Traffic, or in compliance with the directions of a Police Officer or traffic control device in any of the following places:

- 1) On the Sidewalk or Public Walkway;
- 2) On a Crosswalk;
- 3) Within thirty feet of any flashing beacon, stop sign, or traffic control signal located at the side of a Street or Roadway;
- 4) Alongside or opposite any Street excavation or obstruction, when such Stopping, Standing, or Parking would obstruct Traffic;
- 5) Upon any bridge or other elevated structure or within any underpass structure;
- 6) On the Roadway side of any Vehicle stopped, Standing, or parked at the edge or curb of a Street.

Section 9. Moving Of Vehicles Of Other Operators Into Restricted Areas Prohibited. No Person shall move a Vehicle not owned by such Person into any prohibited area or a sufficient distance from curb to make such parking unlawful under this Chapter.

Section 10. Tow Away Zones. No Person shall Park a Vehicle at any time upon any portion of a Street where signs are placed, erected, or installed, giving notice that an area is a tow away zone. The Police Department is hereby authorized to ticket, immobilize, or tow any Vehicle parked in violation of this Section and to remove any other form of obstruction from the public Streets. The procedure for determining whether a Vehicle is to be ticketed, immobilized or towed can be found in the Policy and Procedure Manual of the Police

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Department. The Police Department shall use reasonable diligence to notify the owner of the removal and storage of a Vehicle.

Section 11. Impoundment Of Vehicles. Whenever a Police Officer finds a Motor Vehicle or other Vehicle that falls into one or more of the following categories, the Officer may have the Vehicle removed by a properly licensed wrecker to the storage lot or garage operated by such wrecker:

- 1) Vehicle Abandoned, Junked or wrecked on the Streets of the Town or on Town property;
- 2) Vehicle involved in a hit-and-run accident;
- 3) Vehicle subject of a theft;
- 4) Vehicle used in the commission of a felony;
- 5) Vehicle operated by a Driver who does not have a driver's license or who was under the influence of any impairing substance;
- 6) Vehicle parked in violation of a state statute or a Town Ordinance, except an ordinance against overtime parking.

When any Vehicle is so removed and impounded, the Police Officer towing and impounding the Vehicle shall notify the owner of the Vehicle as stated in the Policy and Procedure Manual for towing of Vehicles. If the owner of the Vehicle or a responsible representative cannot be notified or determined, the Police Department will advertise the impounding of the Vehicle. The owner may redeem and recover the Vehicle by exhibiting proof of ownership to the Police Department and by paying all expenses incident to the impounding of the Vehicle. Nothing in this Section shall be construed to abridge the power and authority of the Police Department to remove any obstruction from the Streets or other Public Places of the Town or to excuse or exempt any Person from any fine or penalty provided for the violation of any Traffic law or ordinance.

Section 12. Immobilization Of Vehicles.

- 1) Installation Of Boot. Whenever a Police Officer finds a Vehicle that falls into one or more of the following categories, the Officer may have the Vehicle immobilized using an immobilization device called an auto-boot:
  - a) When a Vehicle is parked on any Street that is designated a No Parking-Tow Away Zone pursuant to this Chapter and the Vehicle is not blocking the safe flow of Traffic. If the Vehicle is blocking the safe flow of Traffic, the Vehicle is to be towed, not immobilized;

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- b) When a Vehicle is parked in violation of any parking ordinance and has one or more delinquent previous parking citations;
- c) When a Vehicle is parked in violation of a parking ordinance and the owner is considered a habitual violator of the parking ordinances. For the purpose of this Section a habitual violator is one who has been charged two previous times for a similar offense within a three year period.

For the purpose of determining whether an illegally parked Vehicle has had issued against it an outstanding unpaid and overdue parking ticket, it shall be sufficient if the license plate number of the illegally parked Vehicle and the license plate number of the Vehicle having received the tickets are the same.

- 2) Application And Notification Of Immobilization. When an immobilization device is attached to a Vehicle:
  - a) The manufacturer's directions for installation of the device shall be followed;
  - b) A notice shall be affixed to the windshield or other part of the Vehicle so as to be readily visible;
  - c) The notice shall warn that the Vehicle has been immobilized and that any attempt to move the Vehicle may result in damage thereto. The Town shall not be responsible for any damage to an immobilized illegally parked Vehicle resulting from unauthorized attempts to free or move that Vehicle;
  - d) An immobilization fee as set forth in the Town of Montreat Fee Schedule shall be charged for the removal of the immobilization device. The notice shall state that all outstanding parking notices of infraction and the charge for immobilization must be paid in full prior to the removal of the immobilization device; and
  - e) The address and telephone number to be contacted to pay the charges to have the immobilization device removed shall also be listed on the notice.
- 3) Towing Of Immobilized Vehicle. If the penalties due and the immobilization are not paid, or satisfactory arrangements in lieu thereof are not made, within 48 hours of the attachment of the immobilization device, such Vehicle may be towed and impounded by, or at the direction of, the Town Administrator or Police Department, to any private impoundment lot. If a private contractor tows

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and stores such Vehicle, there shall be imposed against the Vehicle the private contractor's actual charges for towing and storing such Vehicle. Once a Vehicle has been impounded the Police Department shall mail, or cause to have mailed, by certified mail, return receipt requested, a notice of impoundment to the registered owner at the address or addresses on record at the North Carolina Department of Motor Vehicles. Copies of this certified mail will be provided also to the Mayor and Town Administrator.

- 4) Release From Impoundment. Upon payment of all penalties and fines for unpaid and overdue parking tickets issued for a Vehicle and all other applicable charges authorized by this Ordinance, including immobilization, towing, and storage fees, the Vehicle shall be released from impoundment to the owner or any other Person entitled to claim possession of the Vehicle.
  
- 5) Failure To Claim Impounded Vehicle. If a Vehicle has been impounded and stored by the Town and remains in the impound facility for a period of time that exceeds 30 days and the registered owner cannot be contacted, then the wrecker service may sell the Vehicle to recover towing and storage expenses in a manner that meets the requirements of N.C. G.S. § 20-114. In the event that this situation occurs the Town will not attempt to collect penalties and fines from the wrecker service or new owner.
  
- 6) Hearing. The registered owner, or Person entitled to possession, of any Vehicle which has been immobilized or impounded pursuant to this Section may submit a request for a hearing to the Mayor of the Town by certified mail within seven calendar days from the date the notice of immobilization is affixed, as set forth in Section 12.2 above, or the date of receipt of the notice of towing, as provided for in Section 12.3 above, whichever is applicable. If a request for a hearing is not made within the allocated time, the right to a hearing shall have been waived.

If a hearing is requested, the Mayor or his/her designee, shall send a statement to such Person to inform him/her of the time and place for the hearing, of the basis for the Vehicle's immobilization and/or impoundment, of the opportunity to present evidence as to why such Vehicle should not have been immobilized, towed, and/or impounded, and of the right to have counsel present at the hearing. The hearing shall be held within five business days of the Town's receipt of a request for a hearing, unless a longer time period is requested by the Person asking for the hearing.

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The Mayor, or his/her designee, shall serve as the hearing officer, shall conduct a hearing and shall prepare a written report within three business days of the hearing stating his/her conclusion as to whether the Vehicle was properly immobilized, towed, and/or impounded, pursuant to this Section, and the reasons and evidence underlying his/her conclusion. If it is concluded that the Vehicle should not have been immobilized, towed, and/or impounded, any improper charge(s) shall be canceled, or if paid, rebated.

- 7) Penalty For Removal, Damage, Or Destruction To Immobilization Device. It shall be unlawful for any Person or Entity to remove from a wheel an immobilization device placed thereon pursuant to this Section or to remove from impoundment any Vehicle placed therein pursuant to this Section without all penalties and fines applicable having first been paid. It shall be unlawful for any Person or Entity to damage or destroy an immobilization device placed on a Vehicle pursuant to this Section.

Section 13. Enforcement Of Parking Violations. Any Police Officer employed by the Town shall have the authority to enforce the various provisions of this Chapter F of Article III. The enforcement of parking ordinances by citation shall be made by attaching to any Vehicle violating the provisions of the parking ordinance a notice to the owner or operator thereof that such a Vehicle has been parked in violation of the provisions of the ordinances of the Town and that such violation subjects the offender to a criminal penalty in the amount stated in the notice and in Section 14 of this Article. More serious or repeat violations of parking ordinances will be enforced by immobilization, impounding, and/or towing in addition to the written parking citation.

Section 14. Parking Penalties. The owner or operator of any Vehicle that has been found to be in violation of a Section of this Article will be subject to the following criminal penalties and/or actions:

- 1) Parking Citation. The issuance of a parking citation to a Person will subject the violator to a fine as provided for in the Town of Montreat Fee Schedule. If the fine is not paid within 15 days from the issuance date it will be overdue and an additional penalty will be imposed as provided for in the Town of Montreat Fee Schedule. If the citation is not paid within 30 days, it will be considered delinquent and the Police Department will notify the violator with a final notice that he/she has failed to comply with the citation and if the citation is not paid within 20 days of the issuance of the final notification the Town will obtain the necessary papers to take the matter to District Court.
- 2) Immobilization. The immobilization of a Vehicle will subject the owner or operator to payment of all outstanding parking citations and for the applicable

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immobilization fee of \$20.00. If the Vehicle that is immobilized is not claimed within 48 hours, then the Vehicle may be removed from the Street and impounded. If this occurs the owner or operator shall also be responsible for towing and impound charges in addition to the fees listed for citations and immobilization fees.

Section 15. Parking for Special Events. Any ticketed event must apply for a special event parking permit. The Chief of Police or his/her designee is hereby assigned to issue permits for any ticketed event that requires traffic and parking control.